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pursue economic opportunities.

Against Drug Testing for TANF Recipients

1. Participation in welfare is not voluntary. I think everyone would agree that in Montana, personal liberty is a priority, and consent becomes a factor in determining how much intrusion is acceptable. Consent requires that we have a choice in the matter. Private organizations can impose requirements because those who join have a choice. Employers, high school participants in sports programs – all have choice. Evidence indicates that most people on welfare, and all the children potentially affected, are not there by any reasonable sense of choice. They cannot really “consent” to a drug testing requirement, therefore it is an intrusion into private lives not consistent with Montana values.
2. Do you or anyone you know attend a public school or university? Receive tax credits or exemptions? Drive, walk, or bike on a road or highway? Have you ever called the police for a fender bender or burglary? We *all* receive taxpayer-funded public benefits – there’s almost no way to avoid them. Why should you and I get special treatment, as recipients of public benefits, while others should be subject to mandatory drug screening?
3. Welfare assistance is not parental oversight. Parental drug use may be dangerous to their families. But drug testing for TANF benefits won’t protect public safety. A positive drug test would only mean that the user doesn’t receive financial assistance. How does that help their children? Child welfare agencies are charged with protecting kids from abuse and neglect; they have the tools to step in when drug use threatens a child’s safety. TANF drug testing will only deprive needy families of money. Workfare recipients have only committed the crime of poverty. There is no reason to suspect them of drug use simply for needing assistance, and no reason to penalize the

children for the parents' sin. Even if you believe that drug users shouldn't be allowed to access public benefits – what about their children? The overwhelming majority of TANF recipients are children. Montana children receive food, clothing, shelter, and basic household necessities through the state's TANF program. This bill holds *children* responsible for parents who use drugs and subject *children* to the consequences. Police already have the right to require drug tests where there is probable cause. This would allow drug testing for welfare recipients short of the legal standard of probable cause.

4. Since TANF is for families in financial trouble, there is no particular reason to suspect them of drug use or target them for drug testing. Florida's foray into drug testing for its welfare recipients netted only a 2% positive rate. National surveys place the rate of illegal drug use at 6 – 8 %. Lawmakers have not established that TANF recipients – with low incomes and a strong need for employment – are more likely to have drug problems than others who receive government benefits.
5. It is unconstitutional. The court ruled in 2003 in *Marchwinski v. Howard* that Michigan's policy of broadly subjecting all welfare applicants to a drug test violates the Fourth Amendment's prohibition against unreasonable searches and seizures. An analysis by the Congressional Research Service concluded in 2008 that state laws requiring drug tests as a condition of benefits, without suspicion of drug use, are susceptible to constitutional challenge. In fact, this is precisely what just happened to Florida's new law, which is suspended pending the outcome of a legal challenge. US District Judge Mary Scriven, an appointee of President Bush, noted "the right to be free from unreasonable searches and seizures under the Fourth Amendment is a fundamental constitutional right" and that to subject all applicants for TANF



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to drug testing would "cause irreparable harm" to those subject to screening. There is also no evidence that TANF funds would be saved by instituting a drug testing program.

6. It costs money. Governments are slashing budgets of vital services that help low-income families weather temporary setbacks. And yet conservatives who complain about spending on the poor want to devote more resources to new efforts? These new expenditures would not be directed at helping low-income people, but at policing them (or harassing them). The only winners in this scenario are the companies manufacturing the tests.
7. Drug addiction is a disease. A final compelling reason we shouldn't drug-test TANF applicants is that drug addiction is a disease. While not all people who use drugs are addicts, studies show that TANF recipients with substance abuse problems have a high incidence of mental and social disorders and turn to drugs and alcohol to cope with their symptoms. Mandatory drug testing of welfare recipients is opposed by the American Public Health Association, the National Association of Social Workers, and the National Association of Alcoholism and Drug Abuse Counselors. Denying access to public benefits is especially devastating for people who've sought help for their addiction but must wait for several months for a spot to open up in a state treatment facility.

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